



**Massachusetts Department of Environmental Protection**  
Bureau of Waste Prevention – Air Quality  
**Emission Notification – 50% or 25% Emissions Cap**  
Instructions & Supporting Materials

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### Background

In Massachusetts, a major facility has federal potential or allowable emissions of:

- $\geq 50$  Tons per Year (TPY) NO<sub>x</sub> or VOC
- $\geq 10$  TPY of any one listed Hazardous Air Pollutant (HAP)
- $\geq 25$  TPY of a combination of HAPs, or
- $\geq 100$  TPY other regulated air pollutants

There are many facilities with federal potential emissions greater than these thresholds and operating with very low actual emissions. Examples include: paint spray operations, fleet maintenance sites, school fuel utilization facilities (boilers) and job shops.

On October 4, 1996, the "50% or 25% Facility Emission Cap Notification" regulation became effective. This regulation is a streamlined means to limit a facility's federal potential and actual emissions to either 50% or 25% of all the major facility thresholds. In other words, if your facility has federal potential emissions equal to or greater than a major facility threshold, and you are willing to restrict your facility's actual and federal potential emissions to either 25% or 50% of said threshold by complying with the requirements of 310 CMR 7.02(11) (i.e. facility-wide emission caps, record keeping and reporting), then complete the notification form and return it to the MassDEP. There is no application fee associated with this notification. Compliance with the facility-wide emission caps defers the applicability of an otherwise applicable major facility requirement such as Operating Permits (310 CMR 7.00: Appendix C), NO<sub>x</sub> or VOC RACT (310 CMR 7.19, 7.18) or major source MACT to the facility.

This notification process may also be used to establish an emissions cap to lower the facility's Annual Compliance Assurance Fee pursuant to 310 CMR 4.03 *Timely Action Schedule & Fee Regulations*. To affect a facility's annual compliance assurance fee, this notification form must be submitted to MassDEP prior to the end of the fiscal year (June 30). Your compliance assurance fee bill is based upon your facility's status as of July 1 of each year.

Please return the completed form to the appropriate regional office, Attention BWP Regional Data Manager. If you need assistance in finding the appropriate regional or its mailing address office, see: <http://www.mass.gov/eea/agencies/massdep/about/contacts/>. Should you have any questions about this regulation or your facility, please also contact the regional office.



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**Instructions**

*LINE BY LINE DIRECTIONS FOR 50% - 25% NOTIFICATION FORM*

**A. Facility Information**

- **Facility Name:** The actual local facility name, not the corporate or other name.
- **Street Address:** The physical location of the facility.
- **City, State, Zip Code:** City name, State and zip code of the facility.
- **Mailing Address:** Complete if different from address above, otherwise write "SAME"
- **Contact Person:** Person located within the facility who is completing the application or a person at the facility familiar with the notification and plant operations.
- **Title:** Title/position of contact person.
- **Telephone Number:** Area code, number and any extension of the person named as contact.
- **Email Address:** The email address of the contact person at the facility
- **Facility AQID or Facility ID Number (FMF):** AQID number is a seven digit identifier found in the upper right corner of the facility's source registration forms on eDEP and in the upper right "RE block" of a preconstruction plans approval, emission control plan, operating permit or enforcement document issued by the MassDEP. The FMF number is found on the annual compliance assurance fee invoice. If not known, leave blank.

**B. Notification Statement**

1. Please indicate ("checking one") which facility-wide emission cap you are electing.  
*N.B.* The 'short term' and more restrictive emission limits established by regulation or plan application review pursuant to 310 CMR 7.02(1) remain in place. Electing to restrict your facility's 'facility-wide' emissions via the 50% or 25% certification does not eliminate a more restrictive short-term or long-term limit established in a plan approval, a regulation or an emission control plan. The owner or operator complying with a facility-wide cap established via this self-certification is no longer subject to the short and long term emission or usage restrictions and recordkeeping and reporting requirements established in a RES pursuant to 310 CMR 7.02(9) or (10).
2. Please indicate ("checking yes or no") whether or not your facility is currently operating with a facility-wide emissions cap. In addition, if you've indicated your facility is operating under an existing emissions cap list the RES, operating permit or other plan approval or ECP with a facility-wide cap, existing 50 or 25% emission cap, where applicable, along with the approval (transaction) number and date of issuance.  
Provide the current facility-wide emissions caps.
3. Facility-wide emissions summary: The ACTUAL emissions from all activities at the facility for the previous calendar year. Please indicate "year".

**C. Certification**

- The signature of the "responsible official" is required. Please PRINT name and title and date.

***RETURN THE COMPLETED FORM TO THE APPROPRIATE REGIONAL OFFICE.***



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### Commonly Asked Questions

#### 1. How do I determine if my facility emits "criteria pollutants" or "regulated pollutants" or "Hazardous Air Pollutants"?

If your facility consists of a "boiler" and/or an "industrial process", your facility emits a regulated pollutant and depending on your "industrial process", may emit Hazardous Air Pollutants (HAP) in addition to those emitted from the "boiler". In general, criteria pollutants PM, NO<sub>x</sub> and SO<sub>x</sub> emissions are emitted from your boiler(s) as a result of the combustion of fuel, and VOC emissions are emitted from industrial processes such as printing, leather coating and other paint spray operations and associated clean up solvents from the use of "raw materials" with volatile organic compounds in their formulations and depending on the formulation, may emit HAP. This information is available on the MSDS (Material Safety Data Sheet) for the particular raw material.

#### 2. Who can elect to comply with 310 CMR 7.02(11) as a facility-wide emission cap for their facility?

If your facility has federal potential emissions equal to or greater than a major facility threshold, and you want to avoid applicability to the operating permit program, or you want to limit your facility's emissions to lower the annual compliance assurance fee, then you may elect to comply with one of the facility-wide emissions caps provided under this regulation.

In addition, this notification form can be used to establish a facility-wide cap on a facility's federal potential emissions to avoid applicability to § 112 (Title III) provided the owner or operator complies with 310 CMR 7.02(11) prior to the first substantive requirement of the applicable MACT standard. The first compliance date is defined as the date an owner or operator must comply with an emission limitation or other substantive regulatory requirement.

#### 3. How will the emissions cap affect my compliance assurance fee (CAF)?

Electing to comply with one of the emissions caps will lower your CAF. The MassDEP has established a three-tier non-major compliance assurance fee (CAF) under 310 CMR 4.00. For example, if you are operating under an RES (CAF of \$1435) and can comply with either the 50% or 25% cap on emissions **for all regulated air pollutants** then you could consider notifying the MassDEP (via the notification form) that your facility will comply with either the 50% and 25% emissions cap and your CAF will be lowered (\$705 and \$315 respectively).

Another example is a facility with federal potential emissions just below the major thresholds (48 VOC or 98 SO<sub>x</sub>) via a 310 CMR 7.02(1) plans approval or RES (310 CMR 7.02 (10)), and currently paying CAF of \$1760. If review of the facility operations indicates that its actual emissions are below one of the emissions caps, and you don't need high-long term federal potential emissions, then you could consider notifying the MassDEP that you will comply with 310 CMR 7.02(11)(e) or (f).

#### 4. How will the emission cap affect my facility?

Electing one of the facility-wide emissions caps limits actual and federal potential emissions, on a rolling 12-month basis, from the facility to either a maximum of 25% or a maximum of 50% of the major thresholds for all regulated pollutants and HAPs. The table that follows illustrates the relationship between the facility-wide emissions and the CAF.



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CRITERIA POLLUTANT or HAP	FACILITY-WIDE EMISSION CAP TONS PER YEAR			
	MAJOR	< MAJOR or RES	≤ 50% MAJOR THRESHOLDS	≤ 25% MAJOR THRESHOLDS
VOC	50	< 50	≤ 25	≤ 15
NOx	50	< 50	≤ 25	≤ 15
SOx	100	< 100	≤ 50	≤ 25
CO	100	< 100	≤ 50	≤ 25
PM	100	< 100	≤ 50	≤ 25
Single HAP *	10	< 10	≤ 5	≤ 2.5
Total ALL HAPs *	25	< 25	≤ 12.5	≤ 6.25
CAF	Calculated but ≥\$3000	\$1760	\$705	\$315

\* Applicability to "major" for HAP is either 10 TPY of any one listed chemical or 25TPY for any combination of listed chemicals.

**5. And what happens to a previously issued approval(s)?**

Complying with a facility-wide emissions cap pursuant to 310 CMR 7.02(11) **does not** relieve the owner's/operator's responsibility to comply with an emission unit's individual short term or more restrictive long-term emission rates established in previously issued plan approvals, emission control plans or applicable regulations. As an example, if a surface coating operation is limited to 4.8 pounds of VOC per gallon of solids and 10 TPY via a 310 CMR 7.02 preconstruction plan approval or federally enforceable regulation, the short term limit (4.8 # VOC/gal solid) is still in effect, and the long term limit (10 TPY) is not raised to 25 tons via compliance with 310 CMR 7.02(11).

The emission and usage rates and associated record keeping and reporting requirements established in the facility's RES pursuant to 310 CMR 7.02(9) or (10) are rescinded when the owner/operator receives, from the MassDEP, a processed BWP AQ Emissions Notification (310 CMR 7.02(11)(a)1). The underlying plan approvals, emission control plans and applicable regulations are still in effect when the RES is rescinded. Finally, the issuance of the 50% or 25% certification does not eliminate the need for preconstruction plans review under 310 CMR 7.02(1).

**6. What is the benefit of complying with this regulation?**

This is a "self certifying" regulation and therefore a streamlined way to defer a facility's responsibility pursuant to "major source status" or to limit the facility's federal potential emissions to lower the facility's Annual Compliance Assurance Fee.

Additionally, you eliminate the requirement to annually report your facility's emissions under the rescinded RES and reduce the frequency of submittal of the source registration/emission statement to triennial.

You must establish and maintain records of actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to the MassDEP or EPA staff upon request. See 310 CMR 7.02(11)(h)



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**7. What is a "rolling twelve-month emission" limit?**

To make an emissions cap enforceable in a practical manner, the MassDEP uses a "rolling twelve-month emission limit". In other words, to determine compliance with the emissions cap, an owner/operator would calculate the facility's emissions for the most recent month and add it to the previous 11 month's emissions. To be in compliance, the resulting sum must be no greater than the established cap.

**8. How do I know if my facility's federal potential emissions are greater than the major facility thresholds?**

By regulation, FEDERAL POTENTIAL TO EMIT or FEDERAL POTENTIAL EMISSIONS is defined in exacting detail. For practical calculations, FEDERAL POTENTIAL TO EMIT or FEDERAL POTENTIAL EMISSIONS means the maximum capacity of a stationary source to emit a regulated pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a regulated pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable.

Basic Calculation:

$(8760 \text{ hrs/yr}) \times (\text{Maximum Emission Rate}) = \text{Annual Emissions}$

**9. What "activities" at my facility are included in the determination of the facility's federal potential emissions?**

By definition, FACILITY means any installation or establishment and associated equipment, located on the same, adjacent or contiguous property, capable of emissions. Activities that are exempt from plan approval review (for example, either by complying with 310 CMR 7.02(2) or a 310 CMR 7.03 category or below the applicability thresholds of 310 CMR 7.02(4)) are INCLUDED in determining the facility's federal potential. If you have any question about what to include, contact your regional BWP permit chief.



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**10. How will I be notified that my facility's federal potential emissions have been limited under this regulation?**

The MassDEP will return a "stamped received" and signed copy to the owner or operator of the facility, and update the MassDEP's data systems to reflect this action.

**11. What types of records do I need to document compliance with the facility-wide emissions cap?**

By regulation the owner or operator is directed to establish and maintain sufficient records to document compliance with the facility-wide emissions cap on a rolling twelve-month basis.

**12. What do I need to do if my facility can no longer comply with an established emissions cap?**

If you initially elected a 25% emissions cap, then you can submit a new self-certification to the regional office of the MassDEP requesting the cap be established at 50%. If you initially elected a 50% cap, then you can submit a new self-certification form to the regional office to lower the cap, or submit a BWP AQ-09 to establish a facility-wide cap greater than the 50% thresholds. Please remember, if a more restrictive long-term emission cap was established in a facility's preconstruction plan approval, then you must submit a plan application (BWP AQ 01,02,03) pursuant to 310 CMR 7.02(4) or (5) to modify the existing plan approval.



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**13. Can I reduce my actual emissions due to waste shipped off-site?**

Yes, provided you know the amount of waste shipped and concentration of the pollutant in the waste. The amount may be determined from a manifest, but should be weighed or visually estimated prior to shipment. The concentration may be determined by a characterization, a contract limit or engineering calculations.

For example, you ship off one 55-gallon drum of paint waste per year. The manifest indicates that the drum weighed 440 pounds. You have a contract with your hauler/disposal facility that requires the waste to contain at least 90% solvent. You may take credit for  $440 \text{ lb} \times 0.9 = 396 \text{ lb}$ .

**14. How do I calculate the federal potential emissions of my facility?**

In calculating your facility's federal potential emissions, it is important to determine the "applicable" emission limitations, rate(s) and the maximum capacity of the operation.

**FEDERAL POTENTIAL TO EMIT or FEDERAL POTENTIAL EMISSIONS** means the maximum capacity of a stationary source to emit a regulated pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a regulated pollutant, including air pollution control equipment and restriction on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. To be federally enforceable, a limitation on any facility's capacity to emit a pollutant shall include testing, monitoring, and recordkeeping procedures sufficient to demonstrate compliance with the limitations. Examples of permit or SIP limitations generally considered federally enforceable are limitations on the allowable capacity of the equipment, requirements for the installation, operation and maintenance of pollution control equipment, limits on hours of operation, and restrictions on amounts of materials combusted, stored, or produced. To be federally enforceable, restrictions on operation, production, or emissions must be stated in terms of the shortest averaging time that can be used as a practical matter, e.g., pounds per hour, or gallons per hour, and they must be tied to other enforceable operating restrictions at the source. General limitations on potential to emit, such as yearly limits (e.g., in tons per year), by themselves, are not considered federally enforceable. The use of hourly, daily, weekly, or monthly rolling limits are generally acceptable. Any federally enforceable limitations or conditions must be enforceable as a practical matter, ensure continuous compliance with the restrictions, and include adequate testing, monitoring, and record keeping procedures sufficient to demonstrate compliance with the limitations or conditions of an applicable federally enforceable document described above. Fugitive emissions, to the extent quantifiable, are included in determining the potential to emit of a stationary source. Secondary emissions do not count in determining the potential to emit of a stationary source.

Are there any Federal or State regulations that limit the operation(s) at the facility? These would include: federal NSPS and NESHAPS, 310 CMR 7.02 preconstruction approvals, RACT limits established in either regulation or source specific approvals; or emission limits found in 310 CMR 7.00: Air Pollution Control Regulations such as 310 CMR 7.02, 7.03, 7.05, 7.02(8) etc.

Once you have determined the applicable emission rate/limit for your process, and that can be the MAXIMUM capacity of the equipment if there isn't an otherwise applicable limit, calculating Federal potential emissions is determined by the following equation:

$$[[\text{MAXIMUM CAPACITY or ENFORCEABLE LIMIT}] \times 8760 \text{ hrs/year}]$$

$$8760 \text{ hrs/year} = 365 \text{ days/year} \times 24 \text{ hours/day}$$



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**Example Process Emissions**

PAINT SPRAY BOOTH: NO MassDEP permits, NO federally enforceable restrictions apply, NO limits on the operation.

MAXIMUM CAPACITY & EQUIPMENT DESIGN:

- spray gun: 3.0 gallons/hour
- paint, each gallon contains 5.5 lbs VOC/gallon and 3.5 lbs solids/gallon (max used by the facility)
- 90% overspray

The VOC emission FEDERAL POTENTIAL from this equipment would be:

3.0 gallons/hour x 5.5 pounds of VOC/gallon x 8760 hours per year x 1 ton/2000 pounds = 72.27 tons per year

The Particulate emission federal potential from this equipment would be:  
3.0 gallons/hour x 3.5 pounds of solids/gallon x 0.90 weight fraction over sprayed x 8760 hours/year x 1 ton/2000 pounds = 41.4 TPY.

This booth has federal potential emissions greater than the major source threshold for VOC.

To utilize the above equation to calculate ACTUAL emissions, substitute ACTUAL GALLONS used in the previous calendar year for "(3 gal/hr) x (8760 hrs/year)".

If for example, the company used 5,678 gallons of paint in 2007 the ACTUAL emissions would be:

5,678 gal/year X 5.5 #VOC/gal X 1 ton/2000# = 15.6 Ton of VOC

If the same owner/operator was operating a spray booth covered by the exemption under 310 CMR 7.03(16), the VOC emission federal potential would be capped at 2.5 tons monthly and 30 tons per year for the entire facility and particulate emissions would be calculated using 97% capture provided that the filters are installed properly and maintained properly.

Also, if the facility had restricted usage and emissions through the MassDEP permitting process under 310 CMR 7.02(4), 7.02(5) or 7.02(10), those restrictions would be included in the calculation.

With regard to filters to control particulate emissions due to overspray, if the spray booth does not have an enforceable restriction (either in a MassDEP written approval or as required in the exemption under 310 CMR 7.03(16)) requiring the filters, then no control efficiency may be credited in the federal potential emissions calculation even if filters are in use.

*Note that Fuel Utilization Facility emission factors can be obtained from the manufacturers guaranteed rates (typically for NOx) and also general emission factors are available in AP-42, which can be obtained from EPA's Technology Transfer Network ([www.epa.gov/ttn/chiefl](http://www.epa.gov/ttn/chiefl)).*



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**REGULATION**

310 CMR 7.02 (11): U 50% or 25% Facility Emission Cap Notification

(a) General.

1. 310 CMR 7.02(11) is an alternative means for an owner or operator to establish an emission cap on a facility's federal potential to emit. An owner or operator complying with 310 CMR 7.02(11) will no longer be subject to the restrictions established in the facility's RES granted pursuant to 310 CMR 7.02(9), or the requirements pursuant to 310 CMR 7.00: *Appendix C* after the Department has returned to the owner or operator a copy of the processed notification form.

2. Failure to comply with the emission cap set forth at 310 CMR 7.02(11)(e) or (f) means that an owner or operator is subject to all previously applicable requirements, including but not limited to, 42 U.S.C. 7401, § 112 (Title III), § 501 (Title V) and 40 CFR 52.21, or 310 CMR 7.18 (only where applicability is determined by the facility's potential to emit), 310 CMR 7.19, 310 CMR 7.00: *Appendix A* and/or 310 CMR 7.00: *Appendix C*.

3. Applicability of § 112 (Title III) may be avoided pursuant to 310 CMR 7.02(11) only where the owner or operator complies with 310 CMR 7.02(11) prior to the first substantive requirement of the applicable MACT standard. The first compliance date is defined as the date an owner or operator must comply with an emission limitation or other substantive regulatory requirement.

(b) Duty to Comply. Operation under 310 CMR 7.02(11) does not relax or eliminate any emission limitation(s), or recordkeeping requirement(s) established by regulation or previously issued source specific plan approval(s) or emission control plan(s). Annual emission limitations established by regulation or source specific plan approval or emission control plan, may not be less stringent than the emission limitations established at 310 CMR 7.02(11)(e) and (f).

(c) Plan Approval. Notwithstanding 310 CMR 7.02(11)(a), an owner or operator is subject to preconstruction plan approval pursuant to 310 CMR 7.02(1) for future construction, substantial reconstruction or alteration at the facility.

(d) Application Requirements. An owner or operator electing to comply with 310 CMR 7.02(11) shall notify the Department on forms provided by the Department, of his/her intentions to operate under one of the emission caps established at 310 CMR 7.02(11)(e) or (f), and that the facility's actual emissions in the prior calendar year were equal to or less than the emission cap. This facility-wide emission cap shall remain in effect until the owner or operator notifies the Department.

(e) 50% Cap Requirements. For owners or operators electing 50% emission cap, in every 12-month period (rolling 12-month), the potential and actual emissions of the facility shall be less than or equal to the following limitations:

1. 25 tons per year of VOC or NO<sub>x</sub>, or 50 tons per year of any other regulated air pollutant;
2. 5 tons per year of a single HAP;
3. 12.5 tons per year of any combination of HAPs; and
4. 50% of any lesser threshold for a single HAP that the EPA may establish by rule.

(f) 25% Cap Requirements. For owners or operators electing 25% emission cap, in every 12-month period (rolling 12-month), the potential and actual emissions of the facility shall be less than or equal to the following limitations:

1. 15 tons per year of VOC or NO<sub>x</sub>, or 25 tons per year of any other regulated air pollutant;
2. 2.5 tons per year of a single HAP;
3. 6.25 tons per year of any combination of HAPs, and
4. 25% of any lesser threshold for a single HAP that the EPA may establish by rule.

(g) Eligible Restrictions. The owner or operator may take into account the operation of air pollution control equipment when calculating the facility's potential emissions, if the equipment is required by Federal or State regulations, or operated in accordance with 310 CMR 7.02(1) or 7.03, or an emission control plan issued pursuant to 310 CMR 7.18 or 310 CMR 7.19.

(h) Record Keeping. The owner or operator electing to operate under one of the emission caps established at 310 CMR 7.02(11)(e) or (f), shall establish and maintain records of actual emissions. Such information shall be summarized in a monthly log, maintained on site for five years, be made available to the Department or EPA staff upon request, and contain the following items where applicable:

1. Coating or Solvent Usage.

- a. A list of process related coatings, solvents, inks and adhesives in use. This list shall include: information on the VOC and HAPs content in lbs per gallon as applied;
- b. A description of production equipment including type, make and model; maximum design process rate or throughput; control device(s) type and description (if any); and a description of the coating/solvent application/drying method(s) employed;



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- c. A monthly log of the gallons consumed of each production solvent (including solvents used in clean-up and surface preparation), coating, ink and adhesive used;
  - d. All purchase orders, invoices, and other documents to support information in the monthly log; and
  - e. The emissions of VOC from any coating used in small amounts are exempt from the emission limitations provided the amount of all coatings exempted does not exceed 55 gallons on a rolling 12 month period. A list of coatings used in small amounts shall be established and records of the consumption of these coatings shall be maintained.
2. Organic Liquid Storage.
- a. A monthly log identifying the liquid stored and monthly throughput;
  - b. Information on the tank design and specifications including control equipment; and
  - c. The emissions of VOC from any coating used in small amounts are exempt from the emission limitations provided the amount of all coatings exempted does not exceed 55 gallons on a rolling 12 month period. A list of coatings used in small amounts shall be established and records of the consumption of these coatings shall be maintained.
3. Fuel Utilization Facility.
- a. Information on equipment type, make and model, maximum power input/output, minimum operating temperature and capacity, control equipment and all source test information;
  - b. A monthly log of hours of operation, fuel type, fuel usage in gallons or tons as appropriate, fuel heating value, percent sulfur for fuel oil and coal; and
  - c. All purchase orders, invoices, and other documents to support information in the monthly log.
4. Air Pollution Control Equipment.
- a. Information on equipment type and description, make and model, and emission units served by the control unit;
  - b. Information on equipment design including where applicable: pollutants(s) controlled; control effectiveness; maximum design or rated capacity; inlet and outlet temperatures, and concentrations for each pollutant controlled; catalyst data (type, material, life, volume, space velocity, ammonia injection rate and temperature); baghouse data (design, cleaning method, fabric material, flow rate, air/cloth ratio); electrostatic precipitator data (number of fields, cleaning method, and power input); scrubber data (type, design, sorbent type, pressure drop); other design data as appropriate; all source test information; and
  - c. A monthly log of hours of operation including notation of any control equipment breakdowns, upsets, repairs, maintenance and any other deviations from design parameters.
5. Not Otherwise Classified Process.
- a. Information on the process and equipment including the following: equipment type, description, make and model, maximum design process rate or throughput, control device(s) type and description (if any);
  - b. Any additional information requested in writing by the Department;
  - c. A monthly log of operating hours, each raw material used and its amount; and
  - d. Purchase orders, invoices, and other documents to support information in the monthly log.
- (i) Reporting. In order to document compliance and maintain an emissions inventory, the Department may require reporting from any owner or operator of a facility with an emissions cap established at 310 CMR 7.02(11)(e) or (f).